MONTANA
ADMINISTRATIVE
REGISTER

ISSUE NO. 20 – OCTOBER 24, 2025

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      [Editor's Note: This supplemental notice is a second notice in the rulemaking cycle that originated with MAR Notice No. 2025-174.1, published in Issue 19. The notice is being renumbered due to a clerical error to MAR Notice No. 2025-206.1.]

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MONTANA
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STATE LOTTERY AND SPORTS WAGERING COMMISSION
DEPARTMENT OF ADMINISTRATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-272.1

Summary

The State Lottery and Sports Wagering Commission is proposing to adopt and amend administrative rules to address bulk ticket purchases.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is greater than 25 based on the number of citizens in Montana.

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, November 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Wednesday, November 5, 2025, at 5:00 p.m.

Contact

Heather Bernet, Paralegal
Phone: 406-841-2922
Email: heather.bernet@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

The State Lottery and Sports Wagering Commission (Lottery) is proposing to adopt a new rule and amend rules to address the growing concern with persons trying to gain an advantage when playing our lottery games by purchasing tickets in bulk to inflate their odds or guarantee a win. There have been multiple high-profile cases in other states, and the Lottery does not want this to become a problem in Montana. This issue is particularly pressing in two types of games: the "draw" games with increasing jackpots and the traditional "scratch" tickets.

In the case of draw games, there have been instances where an individual or group attempts to buy every possible ticket combination once the jackpot reaches a certain threshold. While this may seem like a savvy investment, it undermines the spirit of the lottery. Many players feel cheated, especially those who contributed to building that jackpot through their own ticket purchases.

Similarly, with scratch tickets, there is a troubling trend where individuals monitor ticket availability and prize ratios. The Montana Lottery has games that offer a million-dollar top prize along with lesser prizes. For a game to be solvent, the Montana Lottery must sell a certain percentage of the tickets to cover the cost. Individuals seeking an advantage will monitor these games, the number of tickets in the Montana Lottery warehouse, and where the tickets are being offered for sale. Once the game is available and the top prize ratio reaches a certain point, they will travel to retailers and purchase all available tickets. In certain cases, they will also work with a retailer to order large quantities of tickets from the warehouse in a further effort to corner the market. This not only skews the odds but also puts honest players at a disadvantage.

The feedback from lottery players and sales agents has been clear: these predatory practices are perceived as unfair and detrimental to the lottery experience. By implementing rules to

prevent such behavior, the Lottery can protect both the integrity of the games and the trust of the players. By amending ARM 2.63.611 and ARM 2.63.1201, the Lottery can enforce the prohibition on bulk ticket transactions at both the sales agent and player levels.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

2.63.611 REVOCATION OR SUSPENSION OF LICENSE

(1) After notice, the director has the authority to provisionally suspend the license and, after a hearing before the commission, permanently revoke the license and endorsement of any person who has:

(a) knowingly provided false or misleading information to the lottery or any other agency conducting an investigation on behalf of the lottery;

(b) been convicted of a felony;

(c) endangered the security of the lottery;

(d) sold any ticket, chance, wager, or bet at a higher price than that set by commission rule;

(e) intentionally or knowingly initiated or accepted an offer of compensation from another person, or agreed to aid another person or persons, to claim all or a share of a lottery prize or sports wager winnings by means of fraud, deceit, or misrepresentation;

(f) intentionally preprinted multiple terminal-issued draw game or raffle tickets with the objective of gaining an advantage over other lottery sales locations while benefiting financially, either directly or indirectly, from sale of those tickets;

(g) intentionally amassed packs of scratch tickets or taken other intentional actions to gain an advantage over other lottery sales locations while benefiting financially, either directly or indirectly, from sale of those tickets; ~~or~~

(h) tampered with any equipment used for lottery or sports wagering~~.~~<u>; or</u>

<u>(i) facilitated a bulk ticket transaction.</u>

(2) The director may provisionally suspend the license and, after a hearing before the commission, permanently suspend or revoke a license and/or endorsement for any of the following reasons:

(a) a change of business location;

(b) an insufficient sales volume;

(c) a delinquency in remitting money owed to the lottery;

(d) a violation of any rule adopted by the commission;

(e) knowingly selling to or cashing a lottery or sports wager ticket for a person under the age of 18 years;

(f) allowing an employee under the age of 18 to sell or cash lottery or sports wager tickets;

(g) failing to redeem lottery prize or sports wager winnings as directed by the lottery;

(h) refusing to acquire or display any materials required by the director; or

(i) the sales agent is ineligible for a license and the facts giving rise to such ineligibility occurred or were discovered subsequent to the issuance of a license.

(3) Upon notice of revocation or suspension, the suspended sales agent shall give a final accounting to the lottery and surrender the license, equipment, paper, and tickets to the lottery. The sales agent is liable for all money still owed the lottery.

(4) In circumstances where the suspended sales agent owns or is a partner in multiple locations, the restriction, suspension, or termination of one location associated with the suspended sales agent is grounds for restriction, suspension, or termination of all locations.

Authorizing statute(s): 23-7-202, MCA

Implementing statute(s): 23-7-301, MCA

2.63.1201 PRIZES

(1) Winning lottery and sports wager tickets will be redeemed:

(a) by any sales agent for lottery and sports wager tickets less than $600; or

(b) if the lottery ticket or sports wager ticket value is $600 or more, by presenting the ticket, a claim form, and valid, unexpired photo identification to the lottery, either by mail or in person. Play slip or sales receipt may not be used to claim a prize. Acceptable types of identification include an original or copy of:

(i) driver license;

(ii) government-issued identification card;

(iii) military identification card;

(iv) passport;

(v) permanent resident card;

(vi) Department of Veterans Affairs medical benefits card; and

(vii) tribal government-issued identification card.

(2) In lieu of the methods described in (1), a winning sports wager ticket may be redeemed to the player's account when the sports wager is managed through the player's account.

(3) A winning lottery or sports wager ticket may be redeemed only by an organization with a federal employer's identification number or by an individual.

(4) The claimant's city of residence and amount of prize is public information. The lottery may use a claimant's name and photograph for publicity and advertising purposes only upon written authorization by the claimant.

(5) Unless otherwise provided in the parameters for a specific game, a claimant shall sign the back of a winning lottery or sports wager ticket.

(6) The lottery may deny a claim for a winning lottery or sports wager ticket <u>for any violation of an applicable statute, rule, or parameter, or</u> if the ticket:

(a) was not legally issued;

(b) was stolen;

(c) is altered, forged, or so mutilated that its authenticity cannot reasonably be determined~~.~~<u>; or</u>

<u>(d) was issued in a bulk ticket transaction.</u>

(7) By submitting the claim, the claimant discharges the lottery of all further liability upon payment of the prize claimed.

(8) A lottery or sports wager ticket is a bearer instrument until signed. The person who signs the lottery or sports wager ticket is the bearer of the ticket. Payment of any

prize may be made to the bearer, and all liability of the lottery terminates upon such payment.

(9) Upon validation of a winning claim, a check, electronic transfer, or warrant for the amount of the prize shall be issued to the claimant, less any applicable state or federal income tax withholding.

(10) A lottery or sports wager ticket not passing all validation checks is invalid and no prize may be paid on such ticket.

(11) The director's decision concerning validation and payment of any prize is final and binding.

(12) Prizes over $100,000 may be paid in equal yearly installments without interest over a period of not more than 20 years, as determined by the director. No installment may be less than $20,000.

(13) If the commission enters into an agreement to participate in a game for prizes over $100,000 that requires payment periods of more than 20 years or yearly installment payments of less than $20,000 as a condition of participation, the commission may adopt the installment payment amounts and time periods necessary to comply with the conditions of the game.

(14) All prizes payable at the death of a winner shall be paid to a designated beneficiary, the estate of the deceased, or to a person designated by judicial order.

(15) An owner or employee of a licensed lottery sales agent shall identify themselves as such to lottery officials when claiming a prize at the lottery office or through the claim mail process. This information must be recorded on the claim form maintained by the lottery as part of the prize file.

Authorizing statute(s): 23-7-202, 23-7-311, MCA

Implementing statute(s): 23-7-108, 23-7-202, 23-7-211, MCA

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 (2.63.1008) BULK TICKET TRANSACTIONS

(1) A "bulk ticket transaction" occurs when a person or multiple persons who are acting in concert purchase, in aggregate, lottery tickets exceeding 5% of the available

combinations for a lottery draw game or 5% of the original print run of a scratch game within a 24-hour period. This rule applies regardless of whether the purchase:

(a) occurs in a single transaction or multiple transactions; or

(b) is made at a single retail location or multiple retail locations. The lottery can limit the availability of a single game at retail locations.

(2) For the purposes of this rule, "acting in concert" includes, but is not limited to, persons coordinating their purchases, sharing funds for purchases, or acting on behalf of a common interest or strategy.

(3) The lottery reserves the right to investigate any purchase patterns it deems suspicious or indicative of bulk ticket transactions. The lottery's determination as to whether a violation of this rule has occurred shall be final and binding. The lottery may consider factors including, but not limited to, video surveillance, purchase records, and witness statements in its investigation.

Authorizing statute(s): 23-7-202, MCA

Implementing statute(s): 23-7-202, MCA

Small Business Impact

When an individual or group partners with a small number of sales agents to purchase all available “scratch” tickets in a particular game, it can create a shortage of available tickets to other sales agents and impacts the revenue of sales agents that are small businesses.

In the case of “draw games,” an individual or group will partner with a small number of sales agents to purchase as many of the available number combinations as possible. Only a small group of sales agents benefit from the large purchase. These large sales create distrust and negatively impact the integrity of the lottery. This impacts small businesses by reducing the stability of revenue and decreasing the revenue overall for small businesses who are sales agents..

Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Interested Persons

The Department of Administration maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Lottery. Persons who wish to have their name added to the mailing list must make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Lottery rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person listed in the notice or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Don Harris

Approval

Leo Prigge, Chair

MONTANA
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FISH AND WILDLIFE COMMISSION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-283.1

Summary

The Fish and Wildlife Commission proposes to amend ARM 12.6.1015 to reflect the most accurate and updated list of states and provinces with documented occurrences of chronic wasting disease.

Hearing Date and Time

Monday, November 17, 2025, at 10:00 a.m.

Virtual Hearing Information

Join Zoom Meeting

https://mt-gov.zoom.us/j/86891233101?pwd=EoX8Gg6h9MAvhChUEXc5ObNHHPiKKy.1

Meeting ID: 868 9123 3101

Password: 925313

Dial by Telephone

+1 646 558 8656

Meeting ID: 868 9123 3101

Password: 925313

Comments

Comments may be submitted using the contact information below. Comments must be received by Wednesday, November 19, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, November 7, 2025, at 5:00 p.m.

Contact

Bevin McCormick
406-577-7895
bevin.mccormick@mt.gov

General Reasonable Necessity Statement

The Fish and Wildlife Commission is required by law to maintain an updated list of states and provinces that have documented occurrences of chronic wasting disease. Since the last amendment of the rule, eleven more states (Alabama, California, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Michigan, North Carolina, and Washington) and three additional provinces (British Columbia, Manitoba, and Ontario) have documented occurrences of chronic wasting disease. The proposed amendment incorporates the most up-to-date list of states and provinces with documented chronic wasting disease in their free range or captive cervids as maintained by the U.S. Geological Survey, National Wildlife Health Center of Madison, Wisconsin.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

12.6.1015 IDENTIFIED STATES AND PROVINCES WITH DOCUMENTED OCCURRENCES OF CHRONIC WASTING DISEASE

(1) The commission has determined that the U.S. Geological Survey, National Wildlife Health Center maintains the most accurate and updated list of states and provinces with documented occurrences of chronic wasting disease in wild populations or on private game farms. The commission adopts and incorporates by reference "Distribution of CWD in the United States" and "Distribution of CWD in Canada" to identify the states and provinces with documented occurrences of chronic wasting disease. The lists are available and maintained at https://www.usgs.gov/centers/nwhc/science/expanding-distribution-chronic-wasting-disease. ~~the following states have documented occurrences of Chronic Wasting Disease:~~

~~(a) Arkansas;~~

~~(b) Colorado;~~

~~(c) Illinois;~~

~~(d) Iowa;~~

~~(e) Kansas;~~

~~(f) Maryland;~~

~~(g) Minnesota;~~

~~(h) Mississippi;~~

~~(i) Missouri;~~

~~(j) Montana;~~

~~(k) Nebraska;~~

~~(l) New Mexico;~~

~~(m) New York;~~

~~(n) North Dakota;~~

~~(o) Ohio;~~

~~(p) Oklahoma;~~

~~(q) Pennsylvania;~~

~~(r) South Dakota;~~

~~(s) Tennessee;~~

~~(t) Texas;~~

~~(u) Utah;~~

~~(v) Virginia;~~

~~(w) West Virginia;~~

~~(x) Wisconsin; and~~

~~(y) Wyoming.~~

~~(2) The commission has determined the following Canadian provinces have documented occurrences of Chronic Wasting Disease:~~

~~(a) Alberta;~~

~~(b) Quebec; and~~

~~(c) Saskatchewan.~~

Authorizing statute(s): 87-1-301, 87-6-221, MCA

Implementing statute(s): 87-6-221, MCA

Small Business Impact

The proposed amended rule updates the list of commission-identified states and provinces with documented cases of chronic wasting disease. Statute makes it unlawful to transport the whole or certain parts of carcass of white tailed deer, mule deer, moose, or elk from states or provinces as identified by the commission. The identification of states and provinces is required by law, and has no connection to commerce, the economy, or small business. As a result, there is no class or group of businesses that may be affected by this proposed amendment and no small business impact analysis is available.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written requests may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be completed online at https://public.govdelivery.com/accounts/MTFWP/subscriber/new.

Rule Reviewer

Jaime MacNaughton

Approval

Lesley Robinson, Chair
Fish and Wildlife Commission

MONTANA
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BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-266.1

Summary

Implementation of House Bill 246 pertaining to substantial equivalency

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Hearing Date and Time

Thursday, November 13, 2025, at 9:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/89927655534

Meeting ID: 899 2765 5534; Password: 1476492477

Dial by Telephone: +1 646 558 8656

Meeting ID: 899 2765 5534; Password: 1476492477

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, November 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, November 6, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

The 2025 Montana Legislature passed House Bill (HB) 246 which was signed by the Governor April 3, 2025, and will become effective October 1, 2025. The bill standardizes substantial equivalency determinations in professional licensing and eliminates duplicative statutory sections regarding equivalency and reciprocity.

While historically available to applicants licensed in other states or jurisdictions, licensure by substantial equivalency has never been consistent among the professional licensing boards and programs. HB 246 creates a standard definition for determining substantial equivalency to be uniformly utilized by all the boards and programs when processing endorsement applications. This will create overall efficiencies in processing endorsement applications and reduce licensing wait times for applicants and employers.

To implement the legislation and further the endorsement licensing process, the Board of Professional Engineers and Professional Land Surveyors (board) is proposing to adopt NEW RULE 1. The board has compared current licensure standards of the fifty United States for board licensees and determined those that are substantially equivalent per the definition in 37-1-302, MCA. This new rule will adopt and incorporate by reference the board's initial approved list of states having substantially equivalent licensing standards. The list will be published on the board's website. The board will analyze other states' licensing standards annually, and update the published list as needed.

Rulemaking Actions

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 SUBSTANTIAL EQUIVALENCY

(1) The board adopts and incorporates by reference the 2025 substantial equivalency list for the Board of Professional Engineers and Professional Land Surveyors publication. The publication is available on the board's website.

(2) The board intends to review the publication annually. However, failure to review or adopt a new list does not change the effectiveness of the adoption in this rule.

(3) License applications from individuals licensed in substantially equivalent states are routine applications as to the education, examination, and experience requirements for licensure. Applications may be nonroutine on other bases.

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 37-1-304, MCA

Small Business Impact

Pursuant to 2-4-111, MCA, the Montana small businesses that will probably be affected by the proposed rule changes are consultants and those which employ professional engineers and/or land surveyors. The Board of Professional Engineers and Professional Land Surveyors has determined that the proposed rule changes will not create a negative or significant and direct impact on these small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on July 7, 2025, by electronic mail.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign

up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

Approval

Troy Jensen, Chair, Board of Professional Engineers and Professional Land Surveyors

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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-6.1

Summary

Adoption of NEW RULES 1 through 7 and repeal of ARM 37.52.201, 37.52.204, 37.52.205, 37.52.206, 37.52.210, 37.52.214, and 37.52.220 pertaining to adoption assistance

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Hearing Date and Time

Friday, November 14, 2025, at 2:00 p.m.

Virtual Hearing Information

Join Zoom Meeting: https://mt-gov.zoom.us/j/83324007036?pwd=yUcfZ7zzmDcJLWCRjO4CaUjtX4bqZR.1

Meeting ID: 833 2400 7036 and Password: 604260

Dial by Telephone: +1 646 558 8656

Meeting ID: 833 2400 7036 and Password: 604260

Find your local number: https://mt-gov.zoom.us/u/kfGqMds6f

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, November 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, October 30, 2025, at 5:00 p.m.

Contact

Bailey Yuhas
(406) 329-7913
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rulemaking Actions

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 DEFINITIONS

The following definitions apply to the rules contained in this subchapter:

(1) "Adoption assistance" means the financial and/or medical assistance and/or non-recurring expenses and/or other services provided under an adoption assistance agreement. At a minimum, adoption assistance must include Medicaid coverage for the adopted child and reimbursement of non-recurring adoption expenses.

(2) "Adoption assistance agreement" means a written document between the department and the pre-adoptive parent(s) which is signed by all parties on the date of or prior to the final decree of adoption. The agreement is a written, binding agreement which specifies the amount, duration, and scope of any payments, services, and assistance to be provided under such agreement.

(3) "Child with special needs" means a child who is a dependent of the department, a Montana federally recognized tribe which has entered into a Title IV-E agreement with the department, or a private licensed adoption agency, and meets at least one of the following criteria:

(a) diagnosed as having a physical, mental, or emotional disability;

(b) recognized to be at high risk of developing a physical, mental, or emotional disability;

(c) a member of a minority group;

(d) six years of age or older; or

(e) a member of a sibling group to be placed together for adoption.

(4) "Congregate care" means a therapeutic group home, group home, or shelter care facility fully licensed by the department.

(5) "Independent adoption" means an adoption completed independent of involvement by the department, a Montana tribal social services agency, or a licensed child placing agency. Independent adoptions are not eligible for adoption assistance unless one of the following criteria are met:

(a) the child meets the eligibility criteria for Social Security Income (SSI); or

(b) the child being adopted received adoption assistance in a previous adoption and continues to be a child with special needs.

(6) "Non-recurring adoption expenses" means reasonable and necessary legal fees and costs. This term includes court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of state or federal law.

(7) "Private adoption" means an adoption completed through a private licensed child placing agency.

(8) "Private licensed child placing agency" means an agency as defined in ARM 37.93.101.

(9) "Reasonable efforts to place without adoption assistance" means the department must determine that in each case a reasonable, but unsuccessful, effort to place the child with appropriate pre-adoptive parents without providing adoption assistance, has been made.

(a) The department staff must ask the pre-adoptive parent(s) whether they are willing to adopt without receiving assistance. The pre-adoptive parent(s) must indicate whether they can adopt the child without assistance, and the department staff must document the pre-adoptive parents' response in the child's case record.

(b) The department must establish reasonable efforts to place without adoption assistance except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with pre-adoptive parent(s) while in the care of such parent(s) as a foster child. Any exception to reasonable efforts to place without adoption assistance must be documented in the child's case record.

(10) "Tribal adoption" means an adoption established by a tribal court and the tribe has a Title IV-E agreement with the department. This can include adoptions without termination of parental rights if allowed under the tribal code.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-104, MCA

NEW RULE 2 ADOPTION ASSISTANCE AGREEMENT REQUIRED

(1) An adoption assistance agreement is negotiated between the pre-adoptive parents and the department. The agreement must:

(a) be negotiated and executed by the date of or prior to the date of the finalized adoption decree;

(b) indicate the terms and duration; and

(c) indicate it is binding on all parties.

(2) The agreement covers non-recurring adoption expenses, monthly cash payments, social services, and medical care as provided under federal or state Medicaid programs.

(3) The department is prohibited from using a means test when determining the amount, scope, and duration of the adoption assistance agreement. The agreement must be negotiated taking into consideration the circumstances of the adoptive parents and the needs of the child.

(4) The monthly cash assistance cannot exceed ten dollars less, per month, than the prevailing foster care rate at the time the adoption is finalized.

(5) As a condition of receiving adoption assistance, the adoptive parent(s) must ensure the child is:

(a) enrolled in school, if the child is age seven and above;

(b) enrolled in an authorized independent study program; or

(c) home-schooled consistent with the law of the state or other jurisdiction in which the school, program, or home is located during the entire time the adoption assistance agreement is in place.

(6) If the pre-adoptive parents and the department are unable to reach an agreement on the terms or amounts of the adoption assistance agreement during the negotiation process, or if the pre-adoptive parents are denied adoption assistance the pre-adoptive parents may request a review of the determination by the Child and Family Services Division administrator.

(7) If adoption assistance is denied by the Child and Family Services Division administrator, then the pre-adoptive parents may request a fair hearing.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-108, MCA

NEW RULE 3 RENEGOTIATION

(1) The adoptive parents may request the department renegotiate the amount of the monthly payment in the adoption assistance agreement if:

(a) there has been a change in the family's circumstances; or

(b) a higher foster care rate would have been paid on behalf of the child if the child had still been in foster care.

(2) The renegotiated adoption assistance payment cannot exceed ten dollars less, per month, than the amount the child would have received if the child had been in foster care.

(3) The adoptive parents may request the department renegotiate the adoption assistance agreement to extend beyond the child's 18th birthday if the child continues to meet special needs criteria and has not graduated high school or completed their authorized independent study program by age 18; however, the child is expected to graduate or complete the authorized independent study program on or before their 19th birthday.

(4) The adoptive parents may request that the adoption assistance agreement be extended until the child is 21 years of age if the child has a mental or physical disability and remains in an educational program that warrants continuation of the agreement. The department has sole discretion to approve a request to extend adoption assistance until age 21.

(5) If adoption assistance agreements are extended beyond the child's 18th birthday, then the family may request the amount of the monthly payment be renegotiated in accordance with (1) and (2).

(6) If adoptive parents want to renegotiate the amount of the monthly payment or the length of the adoption assistance, they must contact the Child and Family Services Division (CFSD) Adoption Negotiations Program manager.

(7) The adoptive parents may request a review of the determination by the CFSD administrator if the parent(s) and the department are unable to reach an agreement on the terms or amounts of the adoption assistance agreement during the renegotiation process.

(8) If adoption assistance renegotiation is denied by the CFSD administrator, the adoptive parents may request a fair hearing.

(9) The effective date of a renegotiated agreement will be the earlier of:

(a) the first day of the month following the renegotiated agreement being signed by the department and the adoptive family both parties;

(b) the first day of the month following the date the family requests a review by the CFSD administrator; or

(c) the date the child enters a congregate care facility.

(10) Payments will not be approved retroactively for more than six months from the date of the request for renegotiation of the adoption assistance agreement.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-108, MCA

NEW RULE 4 TERMINATION OF THE ADOPTION ASSISTANCE

(1) Once the adoption assistance agreement is in place, the agreement may be terminated under any of the following:

(a) the conclusion of the term of the agreement;

(b) the adoptive parents provide the department a written request to discontinue the agreement;

(c) upon the child's death;

(d) the death of the parent(s) of the child (one in a single parent family and both in a two-parent family);

(e) the agency determines that the child is no longer receiving any support from the adoptive parent(s);

(i) "Support" means various forms of financial support. Payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs are acceptable forms of financial support.

(ii) The department may continue providing adoption assistance if it determines that the parent is providing some form of financial support to the child even in situations where the child is placed in some form of out-of-home care;

(f) The department determines that the adoptive parent(s) are no longer legally responsible for support of the child. Parents are considered no longer legally responsible for support of the child when any of the following occur:

(i) parental rights have been terminated voluntarily or involuntarily;

(ii) the minor is emancipated;

(iii) the minor marries; or

(iv) the minor enlists in the military.

(2) Adoptive parents are required to inform the department of circumstances that would make them ineligible to continue to receive adoption assistance.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-108, MCA

NEW RULE 5 ELIGIBILITY REQUIREMENTS

(1) Pre-adoptive parents adopting a child from the custody of the department or through a private licensed child placing agency must meet the pre-placement provisions of 42-3-204, MCA, or the department cannot enter into an adoption assistance agreement.

(2) Pre-adoptive parents adopting a child, who is under the jurisdiction of a federally recognized Montana tribal court, and the tribe has a Title IV-E agreement with the department, must do so in accordance with the tribe's established standards for approving adoptive placements. The tribal standards may differ from the pre-placement provisions of 42-3-204, MCA, but they must, at minimum, meet the provisions of SSA Title IV-E, Sec. 471(a)(20)(A). If these federal provisions are not met, the department cannot enter into an adoption assistance agreement.

(3) In addition to pre-adoptive requirements in (1) and (2), the child being adopted must meet the following eligibility requirements:

(a) as required in the Social Security Act, Title IV-E, Sec. 473(a)(1)(A), all adoptions of children consented to by the department, tribal adoptions, and private adoptions are eligible to receive adoption assistance if the department has determined all the following:

(i) the child is a child with special needs; and

(ii) the child meets the adoption assistance eligibility criteria in the Social Security Act, Title IV-E, Sec. 473(2)(A), which specifically require:

(A) that the child was removed from their home as a result of a judicial determination; and

(B) the initial court order sanctioning the child's removal contains language to the effect that it is contrary to the child's welfare to remain in their home.

(4) In addition to (3), a child is also eligible for adoption assistance if either of the following criteria are met:

(a) the child meets the eligibility criteria for Social Security Income (SSI); or

(b) the child being adopted received adoption assistance in a previous adoption and continues to be a child with special needs.

(5) At the discretion of the department and based upon the availability of funding, a child, certified as a child with special needs, adopted from the custody of the department may be eligible for adoption assistance without meeting the criteria in (3) or (4).

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-107, MCA

NEW RULE 6 DETERMINATION REVIEW BY CHILD AND FAMILY SERVICES DIVISION ADMINISTRATOR AND FAIR HEARING REQUESTS

(1) If program staff determine that a child or family is ineligible for adoption assistance or deny a request for adoption assistance, the decision will be sent to the Child and Family Services Division (CFSD) administrator for review.

(2) The CFSD administrator's review is limited to reviewing whether the program staff's determination was made in accordance with the pertinent federal and state requirements. The pertinent federal and state requirements will be found in the following documents:

(a) Social Security Act - Title IV-E;

(b) Title 45 of the Code of Federal Regulation;

(c) Administration For Children and Families' Child Welfare Policy Manual, Sec 8 – Title IV-E;

(d) Title 42, chapter 10, MCA; and

(e) ARM Title 37, chapter 52.

(3) Circumstances that may result in the CFSD administrator overturning the program staff's determination that the child or family is ineligible for adoption assistance include:

(a) the child and adoptive family meet all requirements necessary to receive an adoption assistance agreement but adoption was finalized in state or tribal court prior to the assistance agreement being signed by the department and the adoptive family;

(b) the denial of adoption assistance was based on a means test of the adoptive family; or

(c) there was an erroneous determination by the department regarding the child's or adoptive family's ineligibility for adoption assistance.

(4) After reviewing the specifics of the case and the pertinent federal and state requirements, the CFSD administrator will provide their decision in writing to the program staff.

(a) If the CFSD administrator determines the program staff's determination to deny adoption assistance was made in error, then the program staff will be instructed to negotiate and enter into an adoption assistance agreement with the family.

(b) If the CFSD administrator concurs with the program staff's determination that the child or adoptive family were not eligible for adoption assistance, then the adoptive family will be notified in writing of the decision.

(i) The denial notification provided to the family must include the reasons for the denial and that the denial was reviewed and upheld by the CFSD administrator.

(ii) The notice must also describe the adoptive parent's right to request a fair hearing.

(5) If a post finalization fair hearing determines that a child has been wrongly denied adoption assistance, the department may complete a negotiation with the adoptive family and provide retroactive adoption assistance payments.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-108, MCA

NEW RULE 7 SUSPENSION OF ADOPTION ASSISTANCE

(1) The department may suspend adoption assistance payments if it cannot establish or cannot contact the adoptive parents to establish that the adoptive parent is:

(a) providing any support to the adopted child;

(b) legally responsible for the support of an adopted child under age 18; or

(c) complying with school attendance requirements for the adopted child.

(2) Adoption assistance payments can only be suspended if the signed adoption assistance agreement contains language outlining the circumstances under which the department may suspend adoption assistance payments.

(3) The department must provide adequate notice to the parent prior to suspending adoption assistance payments. Adequate notice includes:

(a) the department must send via certified mail, notification of intent to suspend adoption assistance payment, at least ten working days before the department intends to suspend payments;

(b) the notice must specify that the agency intends to suspend payments, the reason for the intended suspension, and the statutory basis for the intended suspension;

(c) the notice must provide the specific steps the adoptive family must take to reinstate adoption assistance payments; and

(d) the notice must describe the adoptive parent's right to request a fair hearing and that payments will continue through the fair hearing process.

(4) Medicaid will not be suspended during the period in which the adoption assistance payment is suspended.

(5) The suspension of the adoption assistance agreement has no impact on the legal relationship between the parent and child.

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-108, MCA

REPEAL

The rules proposed to be repealed are as follows:

37.52.201 PURPOSE

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-302, MCA

37.52.204 ELIGIBILITY REQUIREMENTS

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-304, MCA

37.52.205 APPLICATION OF PROSPECTIVE ADOPTIVE FAMILY

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-308, MCA

37.52.206 AMOUNT AND DETERMINATION OF SUBSIDY

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-310, MCA

37.52.210 REVIEW OF SUBSIDY PAYMENT

Authorizing statute(s): 42-10-104, MCA

Implementing statute(s): 42-10-107, 42-10-108, 42-10-109, MCA

37.52.214 POST PLACEMENT

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-311, MCA

37.52.220 OTHER AGENCIES

Authorizing statute(s): 53-4-304, MCA

Implementing statute(s): 53-4-304, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing this rulemaking to update and clarify the administrative rules governing adoption assistance. These changes will also ensure that the rules reflect current practice as well as federal guidelines.

The definitions, eligibility requirements, application, adoption assistance payment, termination, post-adoption process, including appeal, are all being updated because of the rules not being reviewed and updated since 1998. These rules need to be updated due to changes and clarification in federal guidelines requiring updated changes in program practices, including due process requirements.

ARM 37.52.201 PURPOSE
This rule will be repealed and replaced by NEW RULE 1 in order to update the language to conform with federal guidance and current practice.

ARM 37.52.204 ELIGIBILITY REQUIREMENTS
This rule will be repealed and replaced by NEW RULE 5. The current rule was last updated in 1998. This change is necessary to conform with current federal guidance and clarify current practice.

ARM 37.52.205 APPLICATION OF PROSPECTIVE ADOPTIVE FAMILY
This rule will be repealed and replaced by NEW RULE 2 in order to conform with federal guidance and clarify current practice.

ARM 37.52.206 AMOUNT AND DETERMINATION OF SUBSIDY
The rule will be repealed and replaced by NEW RULE 2 in order to conform with federal guidelines for determination of adoption assistance. NEW RULE 2 clarifies current department practice.

ARM 37.52.210 REVIEW OF SUBSIDY PAYMENT
This rule will be repealed and replaced by NEW RULE 3 in order to conform with federal regulations and clarify current practice by providing more information about the process of reviews and renegotiation of adoption subsidy payments.

ARM 37.52.214 POST PLACEMENT

This rule is being repealed and NEW RULE 3 and NEW RULE 4 in order to conform with federal guidance and clarify current practice.

ARM 37.52.220 OTHER AGENCIES
This rule will be repealed and replaced by NEW RULE 5 in order to conform with federal guidance and clarify current practice.

NEW RULE 1 DEFINITIONS
The addition of definitions is necessary to provide clarity and common language around the provision of adoption assistance.

NEW RULE 2 ADOPTION ASSISTANCE AGREEMENT REQUIRED
This new rule is necessary to provide information and clarification around information in the adoption assistance agreement and what adoption assistance entails.

NEW RULE 3 RENEGOTIATION
This new rule is necessary in order to provide clarity in the renegotiation process and conform with federal guidance in regards to adoption assistance agreements.

NEW RULE 4 TERMINATION OF THE ADOPTION ASSISTANCE AGREEMENT
This new rule is necessary to clarify the federal requirements in order for families to continue to receive Title IV-E adoption assistance.

NEW RULE 5 ELIGIBILITY REQUIREMENTS
This new rule is necessary to conform with state law and federal guidelines for eligibility for the adoption assistance program.

NEW RULE 6 DETERMINATION REVIEW BY CHILD AND FAMILY SERVICES DIVISION ADMINISTRATOR AND FAIR HEARING REQUESTS
This new rule is necessary to set forth the due process rights of those families denied adoption assistance and to conform with federal guidance that requires a hearing in certain situations.

NEW RULE 7 SUSPENSION OF ADOPTION ASSISTANCE
This new rule is necessary to set forth recent federal guidance which allows for suspension of adoption assistance for certain reasons.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined there is no class or group of small businesses affected by the proposed rulemaking and that the proposed rulemaking will not have a significant and direct effect upon small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Rule Reviewer

Kara Nipper

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services

MONTANA
ADMINISTRATIVE
REGISTER

PUBLIC EMPLOYEES' RETIREMENT BOARD

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-418.1

Summary

The proposed rulemaking generally revises ARM 2.43.2114, 2.43.2309, 2.43.2606, and 2.43.2901 to remove outdated language and for clarity and consistency with current administrative practices. The proposed rulemaking further repeals ARM 2.43.2308 and 2.43.3533 as they are no longer necessary due to subsequent changes to the law.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 7,540 persons based upon a total of approximately 35,229 active and 34,137 inactive vested or inactive non-vested participants in the defined benefit retirement plans, as well as 3,577 active and 2,457 inactive vested or inactive non-vested participants in the PERS Defined Contribution Retirement Plan.

Comments

Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov. Comments must be received by Friday, November 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, November 14, 2025, at 5:00 p.m.

Contact

Kris Vladic
406-444-2578
kvladic@mt.gov
Fax: 406-444-5428

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

2.43.2114 REQUIRED EMPLOYER REPORTS

(1) All reporting agencies shall file the following employer reports, for member and nonmember employees no later than five working days after each regularly occurring payday:

(a) a contributing employee report;

(b) a noncontributing employee report; and

(c) a working retiree report.

(2) Each report must be accompanied by statutorily required employer and employee contributions to the appropriate retirement system as follows:

(a) the contributing employee report requires employer and employee contributions;

(b) the noncontributing employee report requires no contributions; and

(c) the working retiree report requires employer contributions only.

(3) The required contribution rate is the rate in effect at the time the employees or workers are paid, and not the contribution rate in effect when the compensation was earned.

(4) Reporting agencies shall use MPERA's employer web reporting system and shall remit payment via automated clearing house ~~(ACH)~~.

~~(5) If the reporting agency does not have access to the Internet, the employer reports may be either hard-copy or electronic, but must be in the format provided by MPERA, and must be accompanied by the payment of all applicable contributions.~~

~~(a) Commencing July 1, 2013, MUS shall transmit to MPERA the 1.0% additional employer contribution provided for in Chapter 390, Laws of 2013.~~

~~(b) Commencing July 1, 2014, MUS shall also transmit to MPERA the 0.1% additional employer contribution provided for in Chapter 390, Laws of 2013.~~

~~(6)~~(5) The report must be in alphabetical order by last name and contain for each employee or worker, regardless whether the employee or worker is a member of a MPERA-administered retirement system or not:

(a) social security number;

(b) last and first name;

(c) salary;

(d) regular contributions, if any;

(e) service purchase contributions, if any;

(f) the actual hours for which the employee or worker received compensation; and

(g) each employee or worker who terminated during the pay period being reported.

~~(7)~~(6) In addition to the information contained in ~~(6)~~(5), employers must also provide the home addresses of employees and workers who are members of an MPERA-administered retirement system. Home addresses of nonmembers are not required.

~~(8)~~(7) Reports filed by PERS employers must also include any state or local elected official.

~~(9)~~(8) Reporting agencies of the Montana university system (MUS) shall report employees in PERS-covered positions who elect the MUS retirement program (MUS-RP). The MUS-RP report must include all information required in ~~(6)~~(5). At the same time, reporting agencies of the MUS shall transmit amounts equal to the statutorily required plan choice rate and the education fund rate for those employees.

~~(10)~~(9) Delinquent reports are subject to a $10 per day penalty fee, unless the board waives all or part of the penalty for good cause. Penalty fees shall be submitted separate from normal payroll reports.

(10) Employer reporting that retroactively adjusts previously reported compensation, such as in the case of a settled wage claim or delayed bargaining agreement, must be accompanied by required contributions and interest calculated at the assumed actuarial rate of return for the trust fund in effect at the time of the adjusted reporting.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-506, 19-3-315, 19-3-316, 19-3-412, 19-3-1106, 19-3-1113, 19-3-2117, 19-7-1101, MCA

Reasonable Necessity Statement

The Public Employees' Retirement Board (board) proposes to amend this rule to specify the interest due when an employer retroactively adjusts reported member compensation in accordance with Section 4 of Chapter 477 (HB 62) of the Montana Session Laws of 2025. Collection of this interest is necessary to satisfy the statutory and fiduciary obligation under 19-2-409, MCA, that "contributions to each retirement plan must be sufficient to pay the full actuarial cost of the plan." In situations where compensation and necessary contributions on that compensation are paid at a later date and posted retroactively to the pay date that a member originally earned the compensation, those contributions lose the investment earning potential or time value of money for the period from when they should have been paid to when they actually are paid. The current 7.3% interest, as set forth in ARM 2.43.1306, is equal to the investment return rate the board's actuary has determined is necessary to fund future benefits as they accrue. Failure to collect this interest would result in a situation where the retirement trust funds essentially subsidize the legal liabilities or contract delays of participating employers.

2.43.2309 SERVICE PURCHASES BY INACTIVE VESTED MEMBERS

(1) An inactive vested member may purchase any service for which the member is eligible any time prior to retirement. The actuarial cost of the service credit must be based on the system's most recent actuarial valuation and determined using:

~~(2) The inactive vested member's most recent termination date will be considered the purchase request date for all service purchases other than refunded service, which~~

~~is addressed in 19-2-603, MCA and PERS retroactive service, which is addressed in 19-3-505, MCA.~~

(a) ~~The actuarial cost of the service purchase will be determined based on~~ the member's age at the time of the purchase and the member's salary at the time of the member's most recent termination~~.~~; and

(b) interest, equaling the ~~actuarially~~ assumed actuarial rate of return for the trust fund in effect ~~on the member's most recent termination date~~ at the time of the purchase, ~~will be~~ charged and compounded annually until the member completes payment for the cost of the purchase.

~~(3)~~(2) An inactive vested member who purchases service may not elect a retirement date prior to the date the service purchase is completed.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-603, 19-2-908, 19-3-401, 19-3-505, 19-5-301, 19-6-301, 19-7-301, 19-8-301, 19-9-301, 19-13-301, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to correct an error in the calculation timing language of the rule and align the rule with current administrative practice. The current rule sets the request date for certain service purchases by inactive members as the "most recent termination date," but this language is inconsistent with the provision of the Montana Code Annotated governing discretionary service purchases. Each of these statutes requires the payment of "the actuarial cost of the service credit" for discretionary service purchases. See e.g., 19-3-513(2) and 19-6-804(2), MCA ("member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation"). In order to calculate the actuarial cost, time-sensitive variables used in the calculation such as age factors or periods for the assessment of interest must reflect facts in existence on the actual date of the purchase request rather than the inactive member's most recent termination date. Using variables in existence at the inactive member's most recent termination date would fail to account for the investment earnings or time value of money for the period of time between the most recent termination date and the date of the service purchase request and subsequent calculation.

2.43.2606 COMMENCEMENT OF GUARANTEED ANNUAL BENEFIT ADJUSTMENT

(1) If otherwise eligible, a retired member of any retirement system will receive their first guaranteed annual benefit adjustment (GABA) in their January benefit if they have been receiving a monthly benefit in every month for at least 12 months.

Except as provided in (3), commencement of the 12-month period starts the month in which the first benefit payment is made, not the month for which any part of the payment is due.

(2) HPORS retirees hired on or after July 1, 2013 will receive their first GABA in their January benefit if they have been receiving a monthly benefit in every month for at least 36 months. Except as provided in (3), commencement of the 36-month period starts the month in which the first benefit payment is made, not the month for which any part of the payment is due.

(3) In the event a member timely applies to begin retirement in January of any year, but through no fault of the member the January payment is not paid until a later month, the member will be eligible for GABA the January immediately following commencement of payment of the benefit. HPORS retirees hired on or after July 1, 2013, will be eligible the third January following commencement of payment of the benefit.

(a) "Timely applies" is dependent upon individual circumstances, but in any event a fully completed application must be filed on or before the ~~10th~~ 14th of any month in order to be considered timely for receipt of a retirement benefit payment in that month.

(b) MPORS DROP applications must be filed pursuant to ARM 2.43.4609(4) in order to be considered "timely."

Authorizing statute(s): 19-2-403, 19-3-1605, 19-5-901, 19-5-902, 19-6-710, 19-6-711, 19-6-712, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, 19-13-1011, MCA

Implementing statute(s): 19-2-908, 19-3-1605, 19-5-901, 19-5-902, 19-6-710, 19-6-711, 19-6-712, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-9-1207, 19-13-1010, 19-13-1011, MCA

Reasonable Necessity Statement

The board proposes to amend this rule for consistency with administrative practice and the language of ARM 2.43.2601, which governs the service retirement application process, in that applications received by the 14th day of any month are considered timely for payment of the initial retirement benefit in that month.

2.43.2901 REFUNDS TO MEMBERS

(1) Any contributing member who has terminated employment for any reason other than death or retirement may elect to withdraw their accumulated contributions provided:

~~(a) the member makes written request within three months of termination on the most recent application provided by MPERA;~~

~~(b)~~(a) the refund application is completed by the member and forwarded to MPERA;

~~(c)~~(b) the contribution and service credit from the report on which the member last appears is credited to the member's account;

~~(d)~~(c) the employer's report indicates the member has terminated;

~~(e)~~(d) the member will not return to covered employment for at least 30 days; and

~~(f)~~(e) the member does not have an established agreement for reemployment in a position covered by the retirement system providing the refund.

(2) Correctly completed and submitted refund applications will be processed within three weeks after the member's final contributions are credited to the member's account, including termination payments of sick and annual leave.

(3) No partial refunds of normal contributions will be made.

(4) Refunds may not be reversed or returned to MPERA once the payment has been distributed.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-303, 19-2-602, 19-5-403, 19-6-403, MCA

Reasonable Necessity Statement

The board proposes to amend this rule in order to remove the refund applications deadline in (1)(a) because it is potentially inconsistent with the provisions of 19-2-602, MCA, which governs the refund of member's contributions upon termination of service and is one of the statutes this implements. This statute grants any member who has terminated service, other than by death or retirement, the right to be paid the member's accumulated contributions upon the filing of a written application. Nothing in the language of this statute limits this right to the three-month window following termination of service, and current administrative practice is to process these applications at any time so long as statutory requirements are satisfied.

The board further proposes to amend this rule to address situations where a member refunds their accumulated contributions upon termination of service but then experiences a change of heart and wishes to reverse the transaction. Reversing these distributions is not administratively feasible, in part, because the distribution automatically triggers mandatory withholding of federal taxes and early distribution penalties, as well as Internal Revenue Service reporting requirements under 26 U.S.C. § 6047 that cannot be timely recouped or corrected. Accordingly, this proposed amendment is reasonably necessary to inform members of the finality of these distributions.

REPEAL

The rules proposed to be repealed are as follows:

2.43.2308 MOST RECENT SERVICE PURCHASED FIRST

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-704, 19-2-715, 19-3-503, 19-3-505, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA

Reasonable Necessity Statement

The board proposes to repeal this rule as it is anachronistic, administratively difficult to apply, and confusing for members who wish to purchase service. Although no reasonable necessity statement was supplied when this rule was originally adopted in 1986, it is believed that the intent was to prioritize the purchase of recent service where it could be presumed that the compensation used in the calculation would be more representative of the member's contemporary earning potential. However, because applicable law requires the payment of either the actuarial cost of the service credit being purchased or the assessment of interest at the actuarial assumed rate of return on redeposits of refunded member contributions, there is no concern that the actuarial soundness of these transactions depends upon the order that different periods of qualifying service are purchased.

2.43.3533 REALLOCATION OF CERTAIN PERS EMPLOYER CONTRIBUTIONS TO DCRP MEMBER ACCOUNTS

Authorizing statute(s): 19-2-403, 19-3-2104, MCA

Implementing statute(s): 19-3-316, 19-3-2117, MCA

Reasonable Necessity Statement

The board proposes to repeal this rule because, as of March 14, 2016, the Plan Choice Rate – Unfunded Actuarial Liability (PCR-UAL) was paid off and the percentage of employer contributions determined under 19-3-2117 and 19-3-2121, MCA, to pay off the PCR-UAL has been allocated to members' employer contribution accounts for any pay dates on or after April 1, 2016.

Small Business Impact

The board has determined that no class or group of businesses is directly affected by the proposed rulemaking. The proposed amendments and repealed rules will not result in changes to existing retirement benefit payment accounts, and are not anticipated to substantially impact the future benefit payments of current plan members. Benefits were paid to 28,905 in-state recipients in state fiscal year 2024, totaling $623,619,246.66. Please see the Public Employees' Retirement Board Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2024, at page 202 (available at https://mpera.mt.gov/_docs/CAFR/2024ACFR.pdf).

Bill Sponsor Notification

The bill sponsor contact requirements apply and have been fulfilled. The sponsor of Chapter 477 of the Montana Session Laws of 2025 (House Bill 62) was contacted by e-mail and by USPS first class mail on October 14, 2025.

Interested Persons

The Montana Public Employee Retirement Administration (MPERA) maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by MPERA.

Rule Reviewer

Nicholas Domitrovich, Chief Legal Counsel

Approval

Maggie Peterson
President
Public Employees' Retirement Board

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF COMMERCE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-311.2

Summary

Amendment of ARM 8.94.3817 pertaining to the Montana Coal Endowment Program

Previous Notice(s) and Hearing Information

On August 22, 2025, the Department of Commerce published MAR Notice No. 2025-311.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 16.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

8.94.3817 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE MONTANA COAL ENDOWMENT PROGRAM (MCEP) – PLANNING GRANTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

COMMENT NO. 1: One person commented on the change that limits local governments to one planning grant per grant cycle, whereas previously local governments were allowed two planning grants per cycle. The commenter requested that local governments be allowed two planning grants per grant cycle.

RESPONSE NO. 1: Thank you for the comment but the department declines the request. Limiting local governments to one active grant per cycle will encourage timely completion of projects, which is a priority of the Department of Commerce. The department wants local governments to focus on one planning grant at a time to ensure timely completion and to avoid requests to amend grant agreements for more time.

COMMENT NO. 2: It appears that stormwater systems may no longer be eligible for preliminary engineering report (PER) assistance. Page 7 of the guidelines shows stormwater systems crossed out, but on page 30 they are included. Please allow stormwater infrastructure to be eligible for planning grant assistance.

RESPONSE NO. 2: Thank you for the comment. Stormwater systems are eligible for PER assistance. We will correct page 7 to include the reference to stormwater systems.

COMMENT NO. 3: The guidelines do not show a schedule for submitting planning grants. Please include that or provide information on how to access that information.

RESPONSE NO. 3: As soon as the rulemaking process is complete, Community MT will release the schedule for submitting planning grants. The schedule will be posted on the Community MT webpage of the Department of Commerce website.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov
Montana Relay: 711

Rule Reviewer

April Armstrong

Approval

Mandy Rambo, Deputy Director

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF COMMERCE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-359.2

Summary

Amendment of ARM 8.94.3729 pertaining to the Public and Community Facilities Projects Application and Guidelines for the Community Development Block Grant (CDBG) Program

Previous Notice(s) and Hearing Information

On September 12, 2025, the Department of Commerce published MAR Notice No. 2025-359.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 17.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

8.94.3729 INCORPORATION BY REFERENCE OF RULES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) – PUBLIC AND COMMUNITY FACILITIES PROJECTS APPLICATION AND GUIDELINES

Statement of Reasons

No comments were received.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov
Montana Relay: 711

Rule Reviewer

April Armstrong

Approval

Mandy Rambo, Deputy Director

MONTANA
ADMINISTRATIVE
REGISTER

FISH AND WILDLIFE COMMISSION

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-250.2

Summary

Adoption of NEW RULE 1 pertaining to the adoption of private landowner's rules

Previous Notice(s) and Hearing Information

On July 11, 2025, the Fish and Wildlife Commission published MAR Notice No. 2025-250.1, pertaining to the public hearing on the proposed adoption of the above-stated rule in Issue 13 of the 2025 Montana Administrative Register. A public hearing was held on August 14, 2025. No members of the public attended the public hearing.

Final Rulemaking Action – Effective October 25, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (12.2.609) ADOPTION OF PRIVATE LANDOWNER'S RULES

Statement of Reasons

No testimony was provided at the public hearing. The commission received written comments. A summary of the written comments received, and the commission's responses are as follows:

Comment 1: The Montana Wildlife Federation (MWF) provided written comments in full support of the new rule language as proposed pertaining to the adoption of private landowner's rules. Specifically, MWF supports the adoption of private landowner's rules as it will allow FWP to support landowners year-long in managing public recreation.

Response 1: The commission appreciates MWF's support for the adoption of private landowner's rules.

Comment 2: Green Diamond provided written comments supporting the adoption of the rule being proposed. Specifically, Green Diamond supports the adoption of private landowner's rules as it is a necessary tool that will deepen the partnership between the department and landowners and will lead to even safer, more sustainable, and more enjoyable recreation experiences.

Response 2: The commission appreciates Green Diamond's support for the adoption of private landowner's rules.

Comment 3: Flathead Wildlife, Inc. provided written comments strongly endorsing the adoption of ARM 12.2.609. Specifically, Flathead Wildlife, Inc. supports the adoption of private landowner's rules as it will allow FWP to partner with the landowners on a year-long basis, significantly increase enforcement presence, and maintain public recreation privileges on private lands in Montana.

Response 3: The commission appreciates Flathead Wildlife, Inc's support for the adoption of private landowner's rules.

Contact

Kara Thompson
406-594-8071
Kara.thompson@mt.gov

Rule Reviewer

Alex Scolavino

Approval

Lesley Robinson, Chair
Fish and Wildlife Commission

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-120.2

Summary

Adopting variance procedures for building codes

Previous Notice(s) and Hearing Information

On September 12, 2025, the Department of Labor and Industry (agency) published MAR Notice No. 2025-120.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 17.

On October 2, 2025, a public hearing was held on the proposed changes to the rules via the videoconference and telephonic platform. No comments were received by the comment deadline.

Final Rulemaking Action – Effective October 25, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (24.301.1401) DEFINITIONS

NEW RULE 2 (24.301.1403) BUILDING PERMIT APPLICATION

NEW RULE 3 (24.301.1405) BUILDING PLANS

NEW RULE 4 (24.301.1407) FIRE PREVENTION REVIEW

NEW RULE 5 (24.301.1409) APPLICATION APPROVAL, MODIFICATION, OR DENIAL

NEW RULE 6 (24.301.1411) VARIANCE REQUEST

NEW RULE 7 (24.301.1413) HEARING PROCEDURE

Statement of Reasons

No comments were received.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-244.2

Summary

Adoption of NEW RULE 1 pertaining to out-of-state brewer or beer importer registrations

Previous Notice(s) and Hearing Information

On August 22, 2025, the Department of Revenue published MAR Notice No. 2025-244.1 pertaining to the proposed adoption of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 16. The department did not receive any requests for a public hearing. The department did receive a written comment from Michael Lawlor, Lawlor & Co., PLLC.

Final Rulemaking Action – Effective October 25, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (42.13.604) IMPORTATION OF BEER

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Mr. Lawlor commented on his observations that SB 75 (2023) amended 16-4-401, MCA, so that an out-of-state brewer or beer importer no longer needs a "license." Mr. Lawlor states that the $500 annual license renewal fee that previously applied to out-of-state

breweries and beer importers comes from 16-4-501(1), MCA, and although this subsection uses the phrase “wherever located,” it expressly only applies to licensees. So he believes the $500 annual registration fee described in NEW RULE 1(1) may not be authorized by statute.

Response 1: SB 75’s thrust for foreign breweries was to achieve parity with foreign wineries for vetting of ownership interests in accordance with 16-4-401, MCA, and the registration fee is the same as the previous license fee for foreign breweries, so there is no change in economic impact for the registrants.

The registration fee also fits squarely within the department’s rulemaking authority as it can make rules “not inconsistent with this code necessary to efficiently administer this code.” 16-1-303(1), MCA. Although NEW RULE 1’s fee pertains to a “registration,” 16-1-303(2)(j), MCA, authorizes the department to “prescribe fees payable for permits and licenses issued under this code for which fees are not prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules.”

Clearly, setting fees is something the legislature contemplated the department doing and on this basis the department declines to change the rule upon adoption based on Mr. Lawlor’s assertions.

Contact

Todd Olson, Rule Reviewer - Department of Revenue, Legal Services Office
(406) 444-7905
todd.olson@mt.gov

Rule Reviewer

Todd Olson

Approval

Brendan Beatty, Director of Revenue

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-249.2

Summary

Amendment of ARM 42.13.203 to reorganize rule content, to remove certain redundancies in content, and to clarify circumstances when distinct beer collaborations require label approvals

Previous Notice(s) and Hearing Information

On August 22, 2025, the Department of Revenue published MAR Notice No. 2025-249.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 16. The department held a public hearing on September 16, 2025. No interested persons appeared at the hearing, but the department did receive written comments from Michael Lawlor, Lawlor & Co., PLLC, and Matt Leow, Executive Director, Montana Brewers Association (MBA).

Final Rulemaking Action – Effective October 25, 2025

AMEND WITH CHANGES

The agency has amended the following rule with the following changes from the original proposal, stricken matter interlined, new matter underlined:

42.13.203 BEER LABEL APPROVALS

(1) All beer or malt beverage products that a brewer or beer importer desires to sell in the state of Montana must be approved by the department and conform to ARM 42.13.201 prior to the product entering the Montana market. In order to consider the product for approval, the department must receive copies of:

(a) the primary packaging, unless a traditional container is used. Traditional containers include aluminum cans, glass bottles, kegs, and boxes that are typically associated with alcoholic beverages; and

(b) the Certificate of Label Approval for products that are regulated by the Alcohol and Tobacco Tax and Trade Bureau (TTB); or

(c) the label for products that are regulated by the U.S. Food and Drug Administration.

(2) Any changes to the product packaging or labels described in (1)(a) through (c) require department approval prior to the product entering the Montana market.

(3) A brewer of malted beverages who has an annual nationwide production of less than 10,000 barrels is exempt from the requirements in (1)(a) through (1)(c).

(4) Beer containing more than 8.75 percent but not more than 14 percent alcohol by volume must:

(a) meet the definition of beer provided in 16-1-106(5)~~(a)~~, MCA;

(b) be approved by the department prior to being sold or distributed within the state; and

(c) note the alcohol content by volume on the label.

(5) In addition to the requirements in (1)(a) through (c), for beer or formula changes that meet the criteria in (4), the following documents are also required:

(a) The brewer or beer importer must file a form, supplied by the department, attesting that the formula meets the requirements in (4).

(b) If the brewer or beer importer is required by federal law or regulations to file its formula with TTB, the brewer or beer importer is also required to send a copy of the formula filed with the TTB to the department.

(c) At the department's request and sole discretion, brewers or beer importers must file a formula for verification of its compliance with Montana statutes.

(d) All formulas filed with the department are protected by the privacy act and will not be released by the department unless otherwise required by law or by court order.

(6) The department will process the request and provide approval or denial in writing within 30 days of receipt of all required information.

(7) Each brewer actively involved in a distinct beer collaboration pursuant to 16-3-213(4), MCA, must file for a beer label approval if the collaboration beer meets the criteria provided <u>in</u> (4).

Authorizing statute(s): 16-1-303, MCA

Implementing statute(s): 16-1-102, 16-1-106, 16-1-302, 16-4-105, MCA

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Mr. Lawlor commented that the department should consider changing the citation in new (4)(a) from "the definition of beer provided in 16-1-106(5)(a), MCA," to "the definition of beer provided in 16-1-106(5), MCA." Because if the reference is limited to (5)(a), and thus fails to include (5)(b), then the rule would seem to contradict the statute by allowing for 8.75-14% caffeinated or stimulant-enhanced malt beverages, which Mr. Lawlor does not believe is the intent of the statute or of the department.

Response 1: The department agrees that removing the pinpoint cite to (5)(a) in favor of (5) will include more beer products under the rule and is preferred reference. In response to the comment, the department has amended the rule section upon adoption.

Comment 2: Mr. Lawlor also recommended a clarifying change in new (7) noting that the under 10,000 barrels exemption from (3) still applies to the breweries involved in making a collaboration beer.

Response 2: The department disagrees with Mr. Lawlor's suggestion for (7) on the basis that including the cross reference to the exemption in (3) is substantively irrelevant as the department requires all strong beer to be approved regardless of the size of the brewery. The department declines to make the amendment.

Comment 3: Mr. Leow and the MBA provided comments in support of the department's efforts to reorganize rule content and provide clarity to the rule's requirements. However, Mr. Leow requested confirmation of the MBA's understanding that breweries that participate in a collaboration by sending staff to another brewery to brew the beer, but do not serve/sell that beer (either on-premises or in package for off-premises consumption), should not be required to file for label approval. Further, that a brewery that participates in a collaboration by sending staff to another brewery to brew the beer and the visiting brewery will then serve/sell that beer in their own premises under a retail license, that brewery should not be required to file for label approval. As Mr. Leow notes, in the first case, they are not selling the beer at all. In the second case, they are simply purchasing the beer through regular and legal distribution channels, and serving it just as they do any other product they have purchased from another manufacturer.

Response 3: The department appreciates the positive feedback regarding the rulemaking. As to Mr. Leow's comments, the department agrees with both statements and his conclusions that neither scenario necessitates the visiting brewery obtaining label approval for the stated reasons. The department also believes this response is a sufficient statement of understanding and future guidance on the matter and will not further amend the rule upon adoption.

During the course of this rulemaking, the department became aware of an oversight in proposed (7) which inadvertently omits the word "in" before the cross reference to (4) at the end of the sentence. Accordingly, the department has added that word to improve sentence coherence.

Contact

Todd Olson, Rule Reviewer - Department of Revenue, Legal Services Office
(406) 444-7905
todd.olson@mt.gov

Rule Reviewer

Todd Olson

Approval

Brendan Beatty, Director of Revenue

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-277.2

Summary

This rulemaking adopts the elimination of a business filing fee.

Previous Notice(s) and Hearing Information

On September 12, 2025, the Secretary of State published MAR Notice No. 2025-277.1 pertaining to the public hearing on the proposed amendment of the below-stated rule in Issue 17 of the 2025 Montana Administrative Register. A public hearing was held on October 3, 2025.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

44.5.120 TRADEMARK FEES

Statement of Reasons

No comments were received.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-279.2

Summary

This rulemaking is related to the disclosure requirements for paid signature gatherers in the ballot initiative process.

Previous Notice(s) and Hearing Information

On September 12, 2025, the Secretary of State published MAR Notice No. 2025-279.1 pertaining to the public hearing on the proposed adoption and amendment of the below-stated rules in Issue 17 of the 2025 Montana Administrative Register. A public hearing was held on October 3, 2025.

Final Rulemaking Action – Effective October 25, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (44.3.2802) PAID SIGNATURE GATHERER BADGE REQUIREMENTS

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

44.3.2801 REGISTRATION OF EMPLOYERS OF PAID SIGNATURE GATHERERS

Statement of Reasons

No comments were received.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-50.2

Summary

This rulemaking is a clean-up package to clarify the role and duties of various election officials through usage of the proper terms in the administrative rules and to implement the definition changes contained in Senate Bill 61 from the 2023 Legislative Session.

Previous Notice(s) and Hearing Information

On September 12, 2025, the Secretary of State published MAR Notice No. 2025-50.1 pertaining to the public hearing on the proposed amendment of the below-stated rules in Issue 17 of the 2025 Montana Administrative Register. A public hearing was held on October 3, 2025.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

44.3.115 CRITERIA AND PROCESS FOR A PERSON TO BECOME A DESIGNATED AGENT FOR AN ELECTOR WITH A DISABILITY

44.3.1003 FORM AND SUBMISSION OF PETITIONS TO NOMINATE A POLITICAL PARTY'S CANDIDATES BY PRIMARY ELECTION

44.3.1004 VERIFICATION OF ELECTOR SIGNATURES BY COUNTY ELECTION OFFICIALS, TALLY REPORTING, AND RECORDS RETENTION

44.3.1005 WITHDRAWAL OF ELECTOR SIGNATURES FROM PETITIONS

44.3.1102 STATEWIDE VOTER REGISTRATION SYSTEM

44.3.2002 DEFINITIONS

44.3.2012 VERIFICATION OF VOTER REGISTRATION INFORMATION

44.3.2013 NOTICE TO APPLICANT OF STATUS OF APPLICATION FOR VOTER REGISTRATION

44.3.2102 DEFINITIONS

44.3.2110 PROCEDURES AT THE POLLING PLACE FOR DETERMINING THE SUFFICIENCY OF IDENTIFICATION - PRIOR TO CASTING A BALLOT

44.3.2114 PROVISIONAL VOTING PROCEDURES ON ELECTION DAY AFTER THE CLOSE OF POLLS - THE SIXTH DAY AFTER ELECTION DAY

44.3.2115 PROVISIONAL VOTING PROCEDURES - AFTER FINAL DETERMINATION WHETHER OR NOT TO COUNT PROVISIONAL BALLOTS

44.3.2202 DEFINITIONS

44.3.2204 PROCESSES AND PROCEDURES FOR EARLY PREPARATION OF ABSENTEE BALLOTS

44.3.2302 DEFINITIONS

44.3.2304 PROCEDURES FOR ABSENTEE AND MAIL BALLOT VOTING - DETERMINING THE SUFFICIENCY OF IDENTIFICATION OF PROVISIONALLY REGISTERED ELECTORS

44.3.2402 DETERMINING A VALID VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS

44.3.2403 DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS

44.3.2710 DISPOSITION OF BALLOTS RETURNED AS UNDELIVERABLE

Statement of Reasons

No comments were received.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-901.2

Summary

This rulemaking amends the rule related to the distinguishability of business/mark names in registration for clarification purposes.

Previous Notice(s) and Hearing Information

On September 12, 2025, the Secretary of State published MAR Notice No. 2025-901.1 pertaining to the public hearing on the proposed amendment of the below-stated rule in Issue 17 of the 2025 Montana Administrative Register. A public hearing was held on October 3, 2025.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

44.5.131 DISTINGUISHABILITY OF BUSINESS/MARK NAMES

Statement of Reasons

No comments were received.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

TEACHERS' RETIREMENT SYSTEM

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-107.2

Summary

These rule amendments and repeals have been adopted to bring ARM Title 2, chapter 44 into compliance with state and federal law, to create clarity, and to remove duplicative language.

Previous Notice(s) and Hearing Information

On June 27, 2025, MAR Notice No. 2025-107.1 was published in the 2025 Montana Administrative Register, Issue No. 12. No public hearing was held.

Final Rulemaking Action – Effective October 25, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

2.44.301A DEFINITIONS

2.44.305 REPORTING OF MONTANA UNIVERSITY SYSTEM RETIREMENT PROGRAM (MUS-RP) PARTICIPANTS

2.44.402 CREDIT FOR MILITARY SERVICE

2.44.412 NATIONAL GUARD, RESERVISTS, AND VETERANS CALLED TO ACTIVE DUTY

2.44.507 PAYMENT OF MINOR CHILD BENEFITS

2.44.518 LIMIT ON EARNED COMPENSATION - 10% CAP

2.44.522 FAMILY LAW ORDER -- CONTENTS AND DURATION

2.44.523 FAMILY LAW ORDERS -- APPROVAL AND IMPLEMENTATION

REPEAL

The agency has repealed the following rules as proposed:

2.44.408 CREDITABLE SERVICE FOR ABSENCE WITHOUT PAY

2.44.512 CHANGE OF BENEFICIARY AND/OR CHANGE OF RETIREMENT OPTION

2.44.528 EXTRA DUTY COMPENSATION

Statement of Reasons

No comments were received.

Contact

James Malizia
406.444.9388
TrsOutreach@mt.gov

Rule Reviewer

James Malizia

Approval

Shawn Graham - Teachers' Retirement System Executive Director

MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF PHARMACY

DEPARTMENT OF LABOR AND INDUSTRY

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-206.1

Summary

Implementing House Bills (HB) 246, 414, and 794 and Senate Bill (SB) 456

Reason for Supplemental Notice

On October 10, 2025, the Board of Pharmacy (agency) published MAR Notice No. 2025-174.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2025 Montana Administrative Register, Issue No. 19.

A clerical error, however, was discovered in the numbering of the notice. MAR Notice No. 2025-174.1 should have been numbered MAR Notice No. 2025-206.1. This notice is correcting that error. There have been no changes to the proposed rulemaking other than the number of the notice being corrected.

The original proposed rulemaking can be found here:

https://rules.mt.gov/browse/collections/5e1173a6-33c7-4df8-b426-5e0077cfc430/policies/78e054dd-14a4-40c1-be93-12203ad865cc

Hearing Date and Time

Friday, October 31, 2025, at 11:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/81718023198

Meeting ID: 817 1802 3198; Password: 1487061148

Dial by Telephone: +1 646 558 8656

Meeting ID: 817 1802 3198; Password: 1487061148

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, November 14, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, October 27, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Jeff Nikolaisen, Pharmacist, Presiding Officer, Board of Pharmacy

MONTANA
ADMINISTRATIVE
REGISTER

OFFICE OF THE GOVERNOR

VACANCIES AND APPOINTMENTS

OCTOBER 2025

UPCOMING VACANCIES – NOVEMBER 2025

- None

https://governor.mt.gov/boards_appointments/

RECENT APPOINTMENTS – SEPTEMBER 2025

- **9-1-1 Advisory Council**
  - Zachary Slattery
    - 9/1/25 - 9/1/29
    - Qualification: Montana Association of Public Safety Communications Officials representative
    - Predecessor: Kimberly Burdick
  - Paul Finley
    - 9/1/25 - 9/1/29
    - Qualification: Montana Fire Chiefs Assn representative
    - Predecessor: Rich Cowger
  - Jennifer Cherry
    - 9/1/25 - 9/1/29
    - Qualification: Public Safety Answering Point Manager serving a population of less than 30,000
    - Predecessor: Dorothy Gremaux
  - Tim Martindale

        - 9/1/25 - 9/1/29
        - Qualification: Public Safety Answering Point Manager serving a population of more than 30,000
        - Predecessor: Reappointed
    - Jeff Newton
        - 9/1/25 - 9/1/29
        - Qualification: League of Cities and Towns representative
        - Predecessor: Reappointed
    - Scott Paul
        - 9/1/25 - 9/1/29
        - Qualification: Montana Telecommunications Providers
        - Predecessor: Reappointed
    - Christopher O'Connell
        - 9/1/25 - 9/1/29
        - Qualification: National Emergency Number Association representative
        - Predecessor: Not listed
    - Chan Barry
        - 8/28/25 - 1/2/29
        - Qualification: Department of Justice representative
        - Predecessor: Reappointed
    - Jennie Stapp
        - 9/1/25 - 9/1/29
        - Qualification: State Librarian
        - Predecessor: Reappointed
    - Alan Doane
        - 8/29/25 -1/2/29
        - Qualification: Attorney General's designee
        - Predecessor: Reappointed
    - Riley Hash
        - 8/29/25 - 9/1/27
        - Qualification: Montana Emergency Medical Services Assn representative
        - Predecessor: Rand Dickson
    - Trenton Harbaugh
        - 8/29/25 -9/1/27
        - Qualification: Montana Sheriffs and Peace Officers Assn representative
        - Predecessor: Brent Colbert
- **Board of Barbers and Cosmetologists**
    - Dawn Anderson
        - 9/29/25 - 7/1/26
        - Qualification: Member affiliated with a school
        - Predecessor: Robyn Kiesling
    - Therese Brininger
        - 9/29/25 - 7/1/27
        - Qualification: Member affiliated with a school

        - Predecessor: Cassidy Hartford
    - Susannah Leonardi
        - 9/29/25 - 7/1/26
        - Qualification: Cosmetologist
        - Predecessor: Angela Printz
    - Paula Evans
        - 9/29/25 - 7/1/26
        - Qualification: Cosmetologist
        - Predecessor: Reappointed
- **Montana Blockchain and Digital Innovation Task Force**
    - Loren Brown
        - 9/8/25 - 12/31/26
        - Qualification: Public representative
        - Predecessor: Julie Fredrickson
- **Board of Crime Control**
    - Alan Doane
        - 9/8/25 - 1/2/29
        - Qualification: Attorney General's designee
        - Predecessor: Jason Johnson
- **Future Fisheries Review Panel**
    - Zachary Bashoor
        - 9/8/25 - 7/1/27
        - Qualification: Expertise in silviculture
        - Predecessor: Reappointed
    - Bill Semmens
        - 9/8/25 - 7/1/27
        - Qualification: Department of Transportation representative
        - Predecessor: Reappointed
- **Montana Children's Trust Fund**
    - Anita Wotkyns
        - 9/8/25 - 1/1/28
        - Qualification: Public representative
        - Predecessor: Brooke Bartholomew
- **Poet Laureate**
    - Allen Jones
        - 9/16/25 - 8/1/27
        - Qualification: Montana poet
        - Predecessor: Chris La Tray
- **Montana Pulse Crop Committee**
    - Brian Aklestad
        - 7/1/25 - 7/2/28
        - Qualification: At-large member from either district
        - Predecessor: Reappointed
    - Blaine Juedeman

        - 9/16/25 - 7/1/28
        - Qualification: Member from a Western District
        - Predecessor: Reappointed
    - Jeffrey Winkler
        - 9/16/25 - 7/1/28
        - Qualification: Representative of the pulse industry who operates a collection facility that purchases pulses in Montana, ex-officio
        - Predecessor:
- **Teachers' Retirement Board**
    - Daniel Chamberlin
        - 9/8/25 - 7/1/30
        - Qualification: Public representative
        - Predecessor: Reappointed
- **Tourism Advisory Council**
    - Christopher Dunkerson
        - 9/8/25 - 7/1/28
        - Qualification: Yellowstone Country Regional Representative
        - Predecessor: Alicia Harvey
- **Unleashing American-Made Energy Task Force**
    - Sonja Nowakowski
        - 9/10/25 - 9/30/27
        - Qualification: Department of Environmental Quality Director
        - Predecessor: New
    - Marta Bertoglio
        - 9/10/25 - 9/30/27
        - Qualification: Department of Commerce Director
        - Predecessor: New
    - Senator Chris Pope
        - 9/10/25 - 9/30/27
        - Qualification: Legislator
        - Predecessor: New
    - Rep. Gary Parry
        - 9/10/25 - 9/30/27
        - Qualification: Legislator
        - Predecessor: New
    - Shannon L. Brown
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Mike Cashell
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - John Chesser

        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Sarah Clerget
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Rob Corbin
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Sean Farrell
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Ryan Fitzpatrick
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Joe Geiger
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Spencer Gray
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Travis Kavulla
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Mark Lambrecht
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Dan Lloyd
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Bob Morris
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Ed Rihn

        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Andrew Schneider
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
    - Kate Wilson
        - 9/10/25 - 9/30/27
        - Qualification: Public member
        - Predecessor: New
- **Board of Water Well Contractors**
    - William Hayes
        - 9/8/25 - 7/1/28
        - Qualification: Water Well Contractor

Predecessor: Reappointed